

## Notice of Allowability

Application No.

09/668,314

Applicant(s)

GURNEY ET AL.

Examiner

Christopher J Nichols, Ph.D.

Art Unit

1647

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 20 November 2003.
2. ☒ The allowed claim(s) is/are 53,55-66, and 78-82.
3. ☒ The drawings filed on 20 November 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

## DETAILED ACTION

### *Status of Application, Amendments, and/or Claims*

1. The Amendment and Response filed 20 November 2003 has been received and entered in full.
2. The Information Disclosure Statement filed 1 April 2004 has been received, entered, and taken into consideration.
3. The Amendment filed 5 April 2004 has been received and entered in full. The newly submitted claims 83-114 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: said claims are directed to an invention outside the scope of the originally elected group. The claims have been entered into the file.
4. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 83-114 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.
5. The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 1647, Examiner Christopher Nichols.
6. All previous Rejections as set forth in the previous Office Action (20 May 2003) are hereby *withdrawn* in view of Applicant's amendments.

***Election/Restriction***

7. The Restriction Requirement as set forth at pp. 5-6 ¶6-8 and pp. 7 ¶14 mailed on 2 January 2002 is hereby *withdrawn*.

**EXAMINER'S AMENDMENT**

8. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee. The application has been amended as follows:

In the Specification:

pp. 28 line 12 add "SEQ ID NO: 69" after "GLALALEP"

In the claims:

Cancel claims 83-114.

9. Authorization for this examiner's amendment was given in a telephone interview with Sharon Sintich (Reg. No. 48,484) on 6 April 2004.

**REASONS FOR ALLOWANCE**

Art Unit: 1647

10. The following is an examiner's statement of reasons for allowance: The Examiner notes that support for the limitation "in cell culture or a cell-free system" may be found at pp. 51 lines 15-20 of Specification. Support for the "APP cleavage sites" may be found at pp. 99 lines 6-15 and Table 6 of the Specification. Support for the "APP proteolytic activity" may be found at pp. 10 lines 21-28 and pp. 13 lines 11-20 of the Specification.

11. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

#### *Summary*

12. Claims **53**, **55-66**, and **78-82** are hereby allowed.

13. The Examiner acknowledges that acceptance of the above amendment does not mitigate in any way, shape, or form, Applicant's right to pursue additional subject matter in continuation, continuation-in-part, and/or divisional applications pursuant to 35 U.S.C. §120 and §121.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Christopher James Nichols, Ph.D.** whose telephone number is **(571) 272-0889**. The examiner can normally be reached on Monday through Friday, 8:00 AM to 6:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Gary Kunz, Ph.D.** can be reached on **(571) 272-0887**.

The fax number for the organization where this application or proceeding is assigned is **703-872-9306**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866-217-9197** (toll-free).

CJN  
April 9, 2004

  
**GARY KUNZ**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 1600**